IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8659 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

BV JOSHI

Versus

STATE OF GUJARAT

---

Appearance:

MR GIRISH PATEL for Petitioner

MR PREMAL JOSHI, AGP for Respondent No. 1

MR HS MUNSHAW for Respondent No. 2

NOTICE SERVED for Respondent No. 3

---

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 25/04/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner, Vaccination Supervisor, had challenged the order transferring the petitioner from Jalotra (Vadgam) to Vav in the same District i.e. Banaskantha District.

2. While issuing notice, this Court had granted

ad-interim relief restraining the respondent authorities from acting upon or implementing the said order of transfer and while admitting the petition on 26.2.1991, this Court had confirmed the ad-interim relief as interim relief. This petition has come up for final hearing after 9 years.

3. In view of the settled legal position that ordinarily this Court does not interfere with the orders of transfer and that in any view of the matter, the petitioner has remained at the same station for 9 years by virtue of the interim order of this Court, this petition deserves to be dismissed without entering into the merits of the contentions raised in the petition. However, considering the fact that the impugned transfer order was passed on the basis of the factual position which was then prevailing in the year 1990, the respondents are directed to consider the case of the petitioner's transfer on the basis of the factual position now prevailing.

4. Subject to the aforesaid direction, the petition is dismissed. Interim relief stands vacated. Rule is discharged with no order as to costs.

April 25, 2000 (M.S. Shah, J.)
sundar/-